IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 14 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SARABHAI CHEMICALS PVT.LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 14 of 1988
MR RK PATEL FOR MR KC PATEL for Applicant.
MR BB NAYAK FOR MR MANISH R BHATT for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 21/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following question has been referred for the opinion of this Court in respect of the assessment year 1977-78 :

"Whether, a sum of Rs.23,75,000/- on account of 'Guarantee Commission' was deductible while arriving at the 'distributable income' within the meaning of Sec. 109(1)(g) of the Act?"

2 We have heard Mr.R.K.Patel, learned Counsel for the applicant-assessee and Mr.B.B.Nayak for the revenue. The learned Counsel for the parties point out that in case of this very assessee, the controversy about the deductibility on guarantee commission has been decided in favour of the assessee as per the decision dated 5/3/1998 in Income Tax Reference No.119 of 1988.

3 In view of the above, our answer to the question is in the affirmative i.e. in favour of the assessee and against the revenue.

4 The reference accordingly stands disposed of with no order as to costs.

Sd/- Sd/-

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt